

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JULY 7, 2009

CALL TO ORDER/NOTING OF QUORUM

Chairman Snow called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Guthrie and Commissioner Sturtz. Superintendent Huskey, Major Poindexter and Executive Secretary Dunsmore were also in attendance.

Mark Webb, Jim Purucker, Jeff McKean, Trevor Vance, Deb Scott, and Brad Klopfenstein were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the June 16, 2009 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Vice Chairman Johnson moved to approve the parties agreed disposition forms that were submitted for the July 7, 2009 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

RR53-05918 BLUEBIRD LIVE – Commissioner Guthrie moved to uphold the findings of the Hearing Judge. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL82-024043 C.E. TAYLOR OIL, INC. – Commissioner Guthrie moved to uphold the findings of the Hearing Judge. Motion seconded by Commissioner Sturtz, Chairman Snow also voted to uphold the findings, and Vice Chairman Johnson abstained from the vote, because he was the hearing judge in this matter.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and

hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

Four hundred six (406) renewals approved, fifty-seven (57) new and/or transfer permits approved, sixteen (16) permits approved for catering, five (5) permits approved for first year escrow, six (6) permits approved for second year escrow, three (3) permits approved for third year escrow, and two (2) permits approved for fifth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR82-21655 TLC'S RESTAURANTS, INC. – Commissioner Guthrie moved to approve the conversion of this type 209 permit to a type 210 permit, due to the location being annexed into the city limits. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR62-24013 ROSE ELLA HARBAVILLE, D/B/A BANDON TAVERN - Commissioner Guthrie noted this is a type 209 renewal with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the permittee does not qualify under the statute, because their food sales figures are extremely low.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL77-25932 P E R, INC., D/B/A SUNMART – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR64-19510 PHILCAR ENTERPRISES, INC., D/B/A SPORTY'S PUB & GRUB – Commissioner Guthrie noted this is a type 210 renewal application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie stated the one vote to deny was by the Excise officer, who stated the reason for denial was based on past violations of the permittee.

Commissioner Guthrie moved to table this matter for further investigation. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

DL65-25996 A & G FOOD MART, INC., D/B/A BR FOOD MART – Commissioner Guthrie noted this is a new type 115 application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

INACTIVE FILES

INACTIVE FILES – Vice Chairman Johnson moved to make seven (7) permits inactive. Six (6) permits are not subject to auction and one (1) permit is subject to auction. Motion seconded by Commissioner Guthrie and it was unanimously approved.

PERMITS REVOKED – Commissioner Guthrie moved to continue the permits scheduled for revocation hearings until August 4, 2009. Motion seconded by Commissioner Sturtz and it was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

FARM WINERY LOCATIONS IN RESIDENTIAL DISTRICTS – Major Poindexter stated there have been numerous complaints regarding a farm winery that is located inside a residential district. Winery permits do not have to appear before the local board, and; therefore, the public has no outlet to remonstrate when a permit may be located in their neighborhood.

Major Poindexter recommended the Commission approve a policy where during the course of a final inspection for a farm winery, if the inspecting officer determines that the farm winery location would possibly be in a residential district, the officer will then

request that the commission advertise the permit application for a local board hearing. At that local board hearing, the board can determine whether I.C. 7.1-3-19-13 applies to the denial of that permit.

Commissioner Guthrie moved to adopt this policy. Motion seconded by Commissioner Sturtz and it was unanimously approved.

MAILING RENEWALS TO PERMITTEES – Executive Secretary Dunsmore stated he spoke with members of the staff and in an effort to save costs, he recommends the Commission no longer mail the renewal packets to permittees. The permittees need to calendar their renewal dates, or find a way to remind themselves to renew. The forms included in the packet are accessible from the agency's website. A letter has been prepared to mail to permittees notifying them of the change. The letter not only states renewals will no longer be mailed, but also when the renewals are due (75 days prior to expiration), the cost of employee permits (\$45.00), and the phone number in case there are permittees who need renewals sent to them.

Brad Klopfenstein of the Indiana Licensed Beverage Association stated his clients count on those renewal packets as notification it is time to renew.

Jeff McKean stated he understood both sides of the issue. He doesn't have the agency mail renewals for his larger clients, such as CVS. But, the smaller businesses are different. They do count on the renewals being sent. He said it will be hard the first few years, but eventually it will be okay.

Major Poindexter compared this issue to that of renewing a driver's license. The BMV does not send a reminder when driver's licenses expire. We are expected to keep track of that ourselves. This is the permittee's livelihood. They should know when the permit expires.

Commissioner Guthrie stated he is in favor of looking into a possible form of notification to the permittees regarding their expiration date, but moved to approve the policy of not sending renewals to permittees. Motion seconded by Commissioner Sturtz and it was unanimously approved.

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this _____ day of _____, 2009.

P. TOM SNOW, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER